



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Development Review Committee and Senior Director of Planning & Environmental Resources

From: Ralph Gouldy, Senior Administrator, Environmental Resources

Date: October 15, 2008

Subject: *Request for Transfer of Development Rights from RE No. 00168220.000000 on Sugarloaf Key to RE Nos. 00519340.000000, 00519350.000000, 00519360.000000, and 00519370.000000 in Key Largo at Approximate Mile Marker 95*

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**Meeting:** November 3, 2008

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1 I REQUEST:

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3 A. Proposal: Applicant is requesting to transfer development rights from RE No

4 00168220.000000 on Sugarloaf Key to RE Nos. 00519340.000000, 00519350.000000,

5 00519360.000000, 00519370.000000 in Key Largo at approximate mile marker 95. The

6 applicant is requesting this transfer in order to establish sufficient density on the receiver

7 site to allow one single family home.

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9 B. Applicant:

10 Owner: Ed Lewis, LLC – Salvador Gutierrez, Registered Agent

11 Applicant's Agent: John A. Jabro, Esq.

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14 II RELEVANT PRIOR COUNTY ACTIONS:

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16 On October 22, 2007, an Application for Transfer of Development Rights (TDR) was received

17 by the Monroe County Planning Department. The item was scheduled and advertised to be heard

18 by the Development Review Committee (DRC) at the December 4, 2007 meeting. At the request

19 of the applicant's agent, the item was continued to the March 3, 2008 meeting, then to the April

20 8, 2008 meeting, then to the June 24, 2008 meeting, then to the July 8, 2008 meeting, at which

21 time it was again continued. Subsequent to the July meeting, the applicant's agent requested a

22 meeting with Growth Management Staff to discuss the matter. A meeting was held in the

23 Marathon office on July 30, 2008, attended by Salvador Gutierrez and John Jabro for the

24 applicant, and by Growth Management Director Andrew Trivette, Assistant County Attorney

25 Susan Grimsley, Acting Planning and Environmental Resources Director Townsley Schwab, and

1 Senior Administrator Ralph Gouldy for the County. The County explained problems with details  
2 of the application which did not meet the requirements of the Land Development Regulations  
3 (LDRs), and which would result in a recommendation of denial of the TDR transfer. The County  
4 also suggested modifications to the submitted application which would remedy the deficiencies  
5 and result in a recommendation of approval of the application. In addition, the lack of access to  
6 the parcels proposed for development and the absence of potable water and electric service was  
7 discussed. Subsequent to that meeting, the applicant's attorney requested that the County  
8 proceed with hearing the submitted application at the Development Review Committee (DRC).  
9 The item was then scheduled for the November 3, 2008 DRC meeting.

### 10 11 12 III BACKGROUND INFORMATION: 13



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15 SENDER SITE  
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#### 17 Sender Site:

##### 18 A. Location:

- 19 1. Island & Mile Marker: Sugarloaf Key, MM 18
- 20 2. Legal Description: Block 2, Lot 2, Gulf Shores Subdivision
- 21 3. Real Estate No. 00168220.000000

##### 22 B. Size of Site: 15,000 SF (0.34 acres)

##### 23 C. Land Use District: Improved Subdivision (IS)

##### 24 D. Future Land Use Map (FLUM) Designation: Residential Medium (RM)

##### 25 E. Tier Designation: Tier 3

##### 26 F. Existing Vegetation / Habitat: Buttonwood, Mangrove, Sawgrass / Freshwater Marsh

##### 27 G. Community Character of Immediate Vicinity: Developed Residential to the North, 28 Freshwater Marsh to the South, East, & West 29



RECEIVER SITE

Receiver Site:

A. Location:

1. Island & Mile Marker: Key Largo, MM 95
2. Legal Description: Block 17, Lots 11, 12, 13, & 14, Bay Haven Amd Plat
3. Real Estate Nos, 00519340, 00519350, 00519360, & 00519370

B. Size of Site: 20,000 SF (0.46 acres)

C. Land Use District: Suburban Residential (SR)

D. Future Land Use Map (FLUM) Designation: Residential Low (RL)

E. Tier Designation: Tier 1

F. Existing Vegetation / Habitat: The property is high quality hammock embedded in a contiguous hammock of more than twenty (20) acres. County Protected Species Maps designate this area as known or potential habitat to six endangered or threatened species. No cleared roadways provide access to the property, nor are they served by electric or potable water infrastructure.

G. Community Character of Immediate Vicinity: The subject properties are a portion of the Bay Haven Subdivision consisting of contiguous, undisturbed hammock where roads, electric service, and potable water were never installed. A developed portion of Bay Haven exists to the south of this hammock, while the developed Bay Harbor Subdivision exists to the north.

IV REVIEW OF APPLICATION:

Pursuant to Section 9.5-265(a) of the Monroe County Code (MCC), all residential rights allocated or established in MCC Section 9.5-262, 263, and 264 shall be transferable in whole or in part from one parcel of land to any other provided that the following conditions are met:

- (1) *The development of the receiver site is approved as part of a conditional use permit;*  
COMPLIANCE TO BE DETERMINED

Were the submitted TDR Minor Conditional Use application to be approved, development of the receiver site would be in compliance with this provision. However, Staff is recommending denial of the application.

- (2) *The development of the receiver site does not exceed the maximum net densities set out in Sections 9.5-262 and 9.5-267;*

NOT IN COMPLIANCE

Section 9.5-262 provides a Maximum Net Density in the SR Land Use District of five (5) Development Units (DUs) per *buildable* acre. The buildable acreage is the area remaining after any required open space, bufferyards, and / or setbacks are subtracted. The receiver site is part of a larger, high quality hammock with a Tier 3 designation, with a required open space of 80%, leaving 20% as buildable area. Therefore the 0.46 acre receiver site contains 0.092 acres of buildable area (0.46 acre X .20). The Maximum Net Density of the site is 0.46 DU (0.092 acres X 5 DU / acre).

Since the applicant is proposing to build one (1) DU, that density exceeds the 0.46 DU of maximum net density allowed on the property.

- (3) *If the receiver site is located in a IS or IS-M district, no more than one (1) dwelling unit shall be developed on a platted lot;*

NOT APPLICABLE

The receiver site is located in a Suburban Residential (SR) district.

- (4) *If the receiver site is located in an IS-D district, no more than two (2) dwelling units shall be developed on a platted lot;*

NOT APPLICABLE

The receiver site is located in a Suburban Residential (SR) district.

- (5) *The development of the receiver site complies with each and every requirement of this chapter;*

COMPLIANCE CANNOT BE DETERMINED

Staff has not been provided with a site plan for development of the site. Approval of any development on the receiver site would require compliance with each and every requirement of Monroe County Code (MCC) Chapter 9.5.

- (6) *Prior to issuance of a building permit authorizing the development of a dwelling unit, all or part of which is derived from a transferred development right, a deed of transfer shall be recorded in the chain of title of the transferor parcel containing a covenant prohibiting the further use of the transferor parcel for residential purposes other than as excess open space or yard appurtenant to a residential use that is located on a parcel of land that meets the density requirements of the comprehensive plan and this chapter;*

COMPLIANCE TO BE DETERMINED

Were the submitted TDR Minor Conditional Use application to be approved, Staff would include this as a condition for approval prior to issuance of a building permit.

- (7) *The allocated density of the receiver site is greater than or equal to the allocated density of the parcel from which the TDR is severed and the sensitivity of the receiver site as shown in Section 9.5-345(f), 'Clustering', is less than or equal to the sensitivity of the parcel from which the TDR is severed.*

NOT IN COMPLIANCE

The allocated density of the Suburban Residential (SR) district receiver site is 0.5 DU per acre, while the Improved Subdivision (IS) district sender site does not have an allocated density per acre, but rather an allocated density of one (1) DU per lot. Existing improved subdivisions exhibit densities far in excess of 0.5 units per acre.

In addition, the receiver site Suburban Residential (SR) district is included in the Residential Low (RL) Future Land Use Map (FLUM) category of the Year 2010 Comprehensive Plan, while the sender site Improved Subdivision (IS) district is included in the Residential Medium (RM) FLUM category, further establishing a lower density category for the receiver site than the sender site, in contradiction to this provision.

Land use districts with equal or lower allocated densities that could qualify for TDR transfers to the SR district include:

<u>Land Use District</u>	<u>Allocated Density</u>	<u>FLUM Category</u>
Suburban Residential (SR)	0.5 DU/acre	Residential Low (RL)
Suburban Residential Ltd (SR-L)	0.5 DU/acre	Residential Low (RL)
Sparsely Settled (SS)	0.5 DU/acre	Residential Low (RL)
Native Area (NA)	0.25 DU/acre	Residential Conservation (RC)
Park & Refuge (PR)	0.25 DU/acre	Recreation (R)
Offshore Island (OI)	0.1 DU/acre	Residential Conservation (RC)
Mainland Native (MN)	0.01 DU/acre	Mainland Native (MN)

With regard to the sensitivity of the sites, the freshwater wetland sender site is more sensitive than the hardwood hammock receiver site, per Section 9.5-345(f)(1), and thus is in compliance with this provision, were it to otherwise qualify.

V RECOMMENDATION:

Based on the above analysis, Staff recommends **DENIAL** to the Acting Director of Planning & Environmental Resources of approval of the Minor Conditional Use Application for Transfer of Development Rights submitted by Ed Lewis, LLC.